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UNCLASSIFIED PTQ1425

PAGE 01 BERLIN 00689 01 OF 02 201736Z
ACTION EUR-00

INFO	LOG-00	NP-00	AID-00	AMAD-00	CIAE-00	INL-00	DODE-00
	SRPP-00	DS-00	EAP-00	OIGO-00	FBIE-00	UTED-00	VC-00
	TEDE-00	INR-00	JUSE-00	LAB-01	L-00	VCE-00	M-00
	DCP-01	NSAE-00	SCT-00	TEST-00	ASDS-00	DSCC-00	PRM-00
	DRL-01	SAS-00	/003W				

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P 201737Z FEB 03
FM AMEMBASSY BERLIN
TO SECSTATE WASHDC PRIORITY 2312
INFO FRG COLLECTIVE
EU MEMBER STATES
DEPT OF JUSTICE WASHDC

UNCLAS SECTION 01 OF 02 BERLIN 000689

SENSITIVE

DEPT FOR EUR/AGS, S/CT, AND L/LEI
JUSTICE FOR DAAG BRUCE SWARTZ

E.O. 12958: N/A
TAGS: PTER, KJUS, PREL, GM
SUBJECT: TERRORISM: MOTASSADEQ GETS 15 YEAR SENTENCE

SUMMARY

UNCLASSIFIED

PAGE 02 BERLIN 00689 01 OF 02 201736Z

1. (SBU) IN THE FIRST TRIAL OF 9/11 SUSPECTS ANYWHERE IN THE WORLD, THE HAMBURG REGIONAL COURT FOUND MOUNIR EL MOTASSADEQ GUILTY OF 3066 COUNTS OF ACCESSORY TO MURDER AND MEMBERSHIP IN A TERRORIST ORGANIZATION. THE PANEL OF FIVE JUDGES SENTENCED HIM TO FIFTEEN YEARS IN PRISON, THE MAXIMUM ALLOWABLE FOR THESE CHARGES UNDER GERMAN LAW. IN HIS STATEMENT, THE PRESIDING JUDGE PRAISED THE RESPONSIVENESS OF U.S. AUTHORITIES TO THE COURT'S REQUESTS FOR LEGAL ASSISTANCE. THE JUDGE ALSO EXPRESSED UNDERSTANDING FOR THE INABILITY OF U.S. AND GERMAN AUTHORITIES TO MAKE TERROR SUSPECT RAMZI BINALSHIBH AVAILABLE TO THE COURT. THE DEFENDANT'S LAWYERS HAVE ANNOUNCED THEIR INTENTION TO APPEAL THE VERDICT. THE WRITTEN VERDICT IS EXPECTED IN ABOUT A MONTH. END SUMMARY

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: SHARON E AHMAD
DATE/CASE ID: 13 MAY 2009 200706444

CHARGE AND SENTENCE
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2. (SBU) AFTER A TRIAL LASTING ONLY FOUR MONTHS, THE HAMBURG REGIONAL COURT ("OBERLANDESGERICHT") ON FEBRUARY 19 FOUND MOROCCAN MOUNIR EL MOTASSADEQ GUILTY OF 3066 COUNTS OF ACCESSORY TO MURDER, FIVE COUNTS OF ATTEMPTED MURDER AND AGGRAVATED INJURY, AS WELL AS MEMBERSHIP IN A TERRORIST ORGANIZATION. THE COURT GRANTED THE PROSECUTION'S REQUEST FOR THE MAXIMUM SENTENCE OF FIFTEEN YEARS ALLOWED UNDER GERMAN LAW. (NOTE: THE MINIMUM IS THREE YEARS.) IN RENDERING THE JUDGEMENT, PRESIDING JUDGE ALBRECHT MENTZ SAID THAT, ALTHOUGH A DIFFICULT DECISION, THE MAXIMUM SENTENCE WAS JUSTIFIED BY THE "HIDEOUS NATURE" OF THE 9/11 ATTACKS AND THE COURT'S CONCLUSION THAT MOTASSADEQ KNEW AND APPROVED OF THEM.

3. (SBU) NOTE: ACCORDING TO FEDERAL CRIMINAL LAW, THE TIME SERVED IN DETENTION SINCE MOTASSADEQ'S ARREST IN NOVEMBER 2001 WILL COUNT TOWARD THE SENTENCE. IN ADDITION, THE HAMBURG COURT MUST EVENTUALLY DECIDE WHETHER TO PAROLE THE DEFENDANT AFTER HE HAS SERVED TWO THIRDS OF THE SENTENCE (TEN YEARS). IN ANY DECISION TO GRANT PAROLE, THE COURT MUST TAKE INTO ACCOUNT NATIONAL SECURITY CONCERNS, THE CIRCUMSTANCES OF THE CRIME, AND THE PSYCHOLOGICAL PROFILE OF THE PRISONER AND HIS BEHAVIOR WHILE BEHIND BARS. END NOTE.

CONCLUSIONS OF THE COURT
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4. (SBU) THE COURT FOUND THAT THE DEFENDANT BELONGED TO A TERRORIST ORGANIZATION COMPOSED OF RADICAL ISLAMISTS CENTERED IN HAMBURG THAT HAD EVOLVED UNDER THE DIRECTION AND INFLUENCE OF 9/11 SUICIDE PILOT MOHAMMED ATTA. ACCORDING TO THE VERDICT, THIS ORGANIZATION HAD INITIATED PLANNING FOR THE 9/11 ATTACKS AGAINST THE UNITED STATES IN EARLY 1999. THE COURT FURTHER FOUND THAT MOTASSADEQ WAS FULLY INTEGRATED INTO THE GROUP, KNEW OF ITS PLANS AND INTENTIONS, AND ACTIVELY PROMOTED THEM. MOREOVER, ONE PURPOSE OF THE DEFENDANT'S TRIP TO A TRAINING CAMP IN AFGHANISTAN IN EARLY 2000 HAD BEEN TO REPORT TO AL QAEDA LEADERS ON PLANNING FOR THE 9/11 ATTACKS. THE COURT DETERMINED THAT, ALTHOUGH MOTASSADEQ HAD NOT PARTICIPATED IN THE ACTUAL EXECUTION OF THE ATTACKS, HE HAD AIDED THEM THROUGH A NUMBER OF INDIVIDUAL ACTIVITIES AND THEREBY CONCRETELY AND DELIBERATELY ENABLED THE ATTACKS TO

OCCUR.

UNCLASSIFIED

PAGE 04 BERLIN 00689 01 OF 02 201736Z

DEFENSE
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5. (SBU) IN HIS STATEMENTS TO THE COURT, THE DEFENDANT HAD CONTINUOUSLY DENIED ANY CRIMINAL ACTIVITY. IN THEIR CLOSING ARGUMENTS, DEFENSE LAWYERS ARGUED THAT THE EVIDENCE PRESENTED WAS PURELY CIRCUMSTANTIAL. IN SUBSEQUENT PRESS STATEMENTS, THEY ANNOUNCED THEIR INTENTION TO APPEAL THE VERDICT TO THE FEDERAL SUPREME COURT.

6. (SBU) NOTE: THE APPEALS COURT NORMALLY REVIEWS PRE-TRIAL AND TRIAL PROCEDURE, AND ANALYZES THE VERDICT FOR LEGAL ERRORS. THE DEFENSE WILL BE ABLE TO PRESENT ITS APPEAL ARGUMENTS ONLY AFTER THE WRITTEN VERDICT IS RELEASED (EXPECTED IN ABOUT A MONTH). BASED ON THEIR PREVIOUS MOTIONS, DEFENSE LAWYERS WILL LIKELY BASE THEIR APPEAL ON ARGUMENTS THAT THE GERMAN AND U.S. GOVERNMENTS' REFUSAL TO MAKE RAMZI BINALSHIBH AVAILABLE TO THE COURT RESULTED IN AN UNFAIR TRIAL. END NOTE

JUDGE PRAISES JUDICIAL COOPERATION WITH U.S.

UNCLASSIFIED

UNCLASSIFIED PTQ1426

PAGE 01 BERLIN 00689 02 OF 02 201736Z
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7. (SBU) IN RENDERING THE VERDICT, JUDGE MENTZ STATED

"ALTHOUGH THERE IS UNFORTUNATELY NO BILATERAL LEGAL ASSISTANCE TREATY, THE COURT'S LEGAL ASSISTANCE REQUESTS HAVE BEEN ANSWERED BY THE U.S. GOVERNMENT EXCEPTIONALLY QUICKLY AND IN AN UNBUREAUCRATIC WAY." MENTZ ALSO EXPRESSED "FULL UNDERSTANDING" WHY THE SO-CALLED "BINALSHIB INTERVIEWS" REPORTEDLY CONVEYED TO THE FEDERAL GERMAN INTELLIGENCE SERVICE BY THE U.S. COULD NOT BE MADE AVAILABLE TO THE COURT.

COMMENT
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8. (SBU) THE FIFTEEN-YEAR SENTENCE IS THE MAXIMUM POSSIBLE UNDER GERMAN LAW FOR THE CRIMES CHARGED. THE COURT'S VERDICT IS A HOPEFUL SIGN THAT OTHER GERMAN COURTS WILL PROSECUTE TERRORISTS TO THE FULLEST EXTENT OF THE LAW. SOURCES IN THE PROSECUTOR'S OFFICE HAVE TOLD US THAT NEXT ON THE DOCKET MOST LIKELY THIS SUMMER WILL BE ABDELGHANI MZOUDI, ANOTHER MEMBER OF THE HAMBURG CELL WHO HAD STRONG TIES TO MOTASSADEQ AND THE 9/11 SUICIDE PILOTS. END COMMENT
COATS

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